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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

PRESIDING OFFICER'S
RULING NO. MC99-3/1

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

Periodicals Classification Change

Docket No. MC99-3

RULING ON POSTAL SERVICE MOTION FOR EXPEDITION
AND TO FOREGO HEARINGS

(May 3, 1999)

On April 12, 1999, the Commission issued a Notice and Order on Request for *Recommended Decision on Periodicals Classification Change* which required that all interested parties file by April 28, 1999 a written notice of intervention and, if desired, a request for a hearing. Docket No. MC99-3, PRC Order No. 1237 at 4 (April 12, 1999). Of those parties seeking intervention in MC99-3, only the National Federation of Nonprofits (NFN) requested a hearing. Request of the National Federation of Nonprofits for Permission to Intervene, and Request for a Hearing (NFN Request) at 1. NFN questioned the Postal Service's selection of April 9, 1999 as the date on which a procedure to offer refunds of excess postage paid by Nonprofit mailers due to a rate anomaly would be effective, if approved. It is NFN's position that the refund procedure should be retroactive to January 10, 1999 (the effective date of the rates at issue) and, absent a Postal Service amendment to this effect, a hearing on the issue is necessary. *Ibid.*

At the May 3, 1999 prehearing conference for Docket No. MC99-3, NFN reiterated its position on this issue, and indicated interest in cross-examination of Postal Service witness Taufique, as well as presentation of a direct case. NFN acknowledged that it was aware that the Commission recently held that refunds are an operational

decision of Postal Service management, which is beyond the Commission's jurisdictional scope. See Docket No. C99-1, PRC Order No. 1227 at 7-8 (Jan. 27, 1999).

The Postal Service voiced its objection to NFN's request for cross-examination of witness Taufique during that prehearing conference, contending that his testimony is not germane to the only issue raised by NFN — backdating the postage refund to January 10, 1999 (rather than the proposed April 9, 1999). The Service further opposed NFN's request for a hearing to present a direct case regarding the effective date of postage refunds on the basis of lack of Commission jurisdiction on the issue.

The Postal Service prehearing conference objection has the same effect as a formal motion to proceed without evidentiary hearings in this case. In order to assure a complete and balanced record on this issue, it is directed that any participant wishing to submit an answer either supporting or opposing the Postal Service contentions submit its pleading by May 7, 1999. Parties are asked to specifically address the separate issues of the relevance of cross-examination of Postal Service witness Taufique and NFN presentation of a direct case in this matter.

As the Service motion involves important questions of law and policy, I shall certify this motion to the full Commission for its consideration, pursuant to Rule 32.

RULING

1. Those participants wishing to respond to the Postal Service's prehearing conference motion to forego hearings in MC99-3 shall file answers by May 7, 1999. Answers should address the separate issues of the relevance of cross-examination of Postal Service witness Taufique and the NFN request to present a direct case on the effective date of the proposed postage refunds.

2. The Postal Service's prehearing conference motion to forego hearings in MC99-3 is certified to the full Commission.

A handwritten signature in black ink, reading "Ruth Y. Goldway". The signature is written in a cursive, flowing style with a long horizontal stroke extending to the right.

Ruth Y. Goldway
Presiding Officer